

## REMARKS

The above-identified application is United States application serial number 10/608,585 filed on June 26, 2003. Claims 1-30 are pending in the application. Claims 1-30 are rejected.

### Rejection of Claims Under 35 UC §101

Claims 25-29 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicants have amended independent Claims 25 and 28 to specify "a tangible controller usable medium," limiting subject matter to tangible article of manufacture embodiments. The amended claim thus avoids the issue of application to electromagnetic signals which is irrelevant in the amended claims since program code that is supplied via electromagnetic signals is embodied in a tangible computer-readable medium albeit either local to or remote from the controller.

### Rejection of Claims Under 35 UC §102

Claims 11-13 and 28-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Sharma et al. (US 7184402), hereafter referred to as Sharma. Applicants have amended independent Claims 11 and 28 to specify acts and associated program code for "determining which of the plurality of communication links is currently available for usage" and "activating the next available link on the list" which distinguishes over Sharma which activates links selected according to "fastest transmit time" and "fastest link speed" criteria as described from column 5, line 32, to column 6, line 60, and not a "next available link" criterion.

Claims 1, 14, and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Counterman (US 6222858). Applicants have amended independent Claims 1 and 25 to specify acts and associated program code for "defining a link affinity grouping based on a plurality of criteria including throughput for round-robin scheduling and throughput for a next available link scheduling," and amended Claim 14 to specify "a controller . . . that assigns . . . communication links into . . . [a] link affinity group based on performance criteria including

KOESTNER BERTANI LLP  
2100 MARTIN ST.  
SUITE 150  
IRVINE, CA 92612  
TEL (949) 251-0210  
FAX (949) 251-0090

throughput for round-robin scheduling and throughput for a next available link scheduling." In contrast, Counterman teaches two different types (k method and q method) of round robin scheduling that vary by the number of cells serviced in during sequential round robin cycles, neither of which is a "next available link" technique.

#### Rejection of Claims Under 35 UC §103

Claims 2-4, 8, 9, 15, 16, 18, 20, 21, 23, 26, 27 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Counterman (US 6222858) in view of MacFarlane et al. (US 6516348), hereafter referred to as MacFarlane. Claims 5-7, 17, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Counterman (US 6222858) in view of MacFarlane (US 6516348), in further view of Lancon et al. (US 6647028), hereafter referred to as Lancon. Claims 10 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Counterman (US 6222858) in view of MacFarlane (US 6516348), in further view of Sharma (US 7184402). Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Counterman (US 6222858) in view of MacFarlane (US 6516348), in view of Sharma (US 7184402), in further view of Kwon (US 6643709). Applicants have amended the claims which distinguish over Counterman in view of McFarlane, Lancon, Sharma, and Kwon which do not disclose acts and program code for "defining a link affinity grouping based on a plurality of criteria including throughput for round-robin scheduling and throughput for a next available link scheduling," and "a controller . . . that assigns . . . communication links into . . . [a] link affinity group based on performance criteria including throughput for round-robin scheduling and throughput for a next available link scheduling."

#### New Claims

Applicants have added new Claims 31-34 to cover additional aspects of link affinity grouping as disclosed in the original specification. No new matter is added.

KOESTNER BERTANI LLP  
2182 MARTIN ST.  
SUITE 150  
IRVINE, CA 92612  
TEL (949) 251 8210  
FAX (949) 251 8098

### CONCLUSION

Applicants believe all remaining claims are in form for allowance and a notice to that effect is solicited. No new matter has been added. In the event it would facilitate prosecution of this application, the Examiner is invited to telephone the undersigned at (949) 251-0250.

I hereby certify that this correspondence is being filed electronically to the USPTO on the date shown below

/Joy G. Ngo/

(Signature)

Joy G. Ngo

(Printed Name of Person Signing Certificate)

August 10, 2007

(Date)

Respectfully submitted,

/Ken J. Koestner/

Ken J. Koestner  
Attorney for Applicant(s)  
Reg. No. 33,004

KOESTNER BERTANI LLP

2100 MARTIN ST.  
SUITE 150  
IRVINE, CA 92612  
TEL (949) 251-0250  
FAX (949) 251-0090